

DEPARTMENT OF THE ARMY
US ARMY MEDICAL DEPARTMENT ACTIVITY
FORT HUACHUCA, ARIZONA 85613-7079

MEDDAC MEMORANDUM
No. 40-42

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Medical Services
CONSENT FOR MEDICAL TREATMENT

	Para	Page
HISTORY-----	1	1
PURPOSE-----	2	1
SCOPE-----	3	1
REFERENCES-----	4	1
GENERAL APPLICATIONS-----	5	2
CONSENT FOR EMERGENCY TREATMENT-----	6	3
DOCUMENTING CONSENT-----	7	4
CONSENT OF ACTIVE DUTY PERSONNEL-----	8	4
RELEASED AGAINST MEDICAL ADVICE-----	9	5
TELEPHONIC CONSENT FOR MEDICAL CARE-----	10	5
OBTAINING MEDICAL POWER OF ATTORNEY-----	11	5
OTHER SITUATIONS-----	12	5
APPENDIX A (SPECIAL POWER OF ATTORNEY)-----		A-1
APPENDIX B (DA 5009R RELEASE AGAINST MEDICAL ADVICE)		B-1

1. History: This issue publishes a revision of this publication.
2. PURPOSE: To provide guidance for obtaining and documenting consent from patients to be treated at Raymond W. Bliss Army Health Center, Fort Huachuca, Arizona.
3. SCOPE: This memo applies to all activities at Raymond W. Bliss Army Health Center, Fort Huachuca, Arizona.
4. REFERENCES:
 - 4.1 AR 40-3, Medical, Dental and Veterinary Care, w/MEDCOM Supplement 1.
 - 4.2 AR 40-66, Medical Record and Health Care Documentation
 - 4.3 AR 40-562, Immunization and Chemoprophylaxis.
 - 4.4 AR 600-20, Army Command Policy.

*This memorandum supersedes MEDDAC Reg 40-42, 1 Apr 04

4.5 MEDDAC Memo 40-22, Medical Treatment of Minors.

4.6 Arizona Law, Arizona Hospital Association Consent Manual current edition.

5. GENERAL APPLICATIONS:

5.1 A patient will normally be given routine medical care when consent is granted by:

5.1.1 An adult patient, eighteen (18) years of age, emancipated minors and members of the Armed Services.

5.1.2 Someone authorized to consent on behalf of the patient according to Arizona law or the orders of a court having jurisdiction over the patient, or having a legally executed medical power of attorney.

5.1.3 Minors, sixteen (16) or seventeen (17) years of age, may be treated without consenting adults present if a valid Special Power of Attorney (SPOA) (Child Medical Care), (See Appendix A), granting consensual authority to the patient is in the possession of the patient. The SPOA may be filed in the patient's Outpatient Treatment Record (OTR).

5.1.4 An adult, or sibling eighteen (18) years of age or older, who has been granted consensual authority to act as guardian by a minor's parents, as in paragraph 5.1.3 above.

5.2 Consent involves a statement, by the patient or person authorized to act on his/her behalf, that specifies consent is given to proposed medical care. Consent may be either expressed or implied.

5.3 Written consent must be obtained before performing any of the following procedures (valid for 72 hours):

5.3.1 All surgical procedures involving entry into the body by an incision or through one of the natural body openings.

5.3.2 Any procedure or course of treatment in which anesthesia is used, whether or not entry into the body is involved.

5.3.3 All non-operative procedures that involve more than a slight risk of harm to the patient or that involve the risk of a change in body structure.

5.3.4 All procedures in which x-ray, radium, or other radioactive substance is used in the patient's treatment.

5.3.5 All procedures that involve electroshock therapy.

5.4 Consent to medical care must be preceded by counseling of the patient to inform him/her, in terms and language understandable to the patient, of:

5.4.1 The nature and purpose of the operation or procedure.

5.4.2 Possible alternative methods of treatment.

5.4.3 Risks involved, including possible complications.

5.4.4 The benefits of the contemplated procedure.

5.4.5 The probable result of not having the procedure done.

6. CONSENT FOR EMERGENCY TREATMENT:

6.1 For consent purposes, an emergency is a situation where the patient requires immediate care, and there is danger to life or health, or well being if the care is delayed. Expressed consent is unnecessary in the context of such an emergency. An emergency exists if three things are present:

6.1.1 The patient needs immediate medical attention. No restriction is placed on the form of assistance that can be rendered if the patient has immediate need for the assistance. Treatment can range from elementary first aid to surgery. However, without a manifestation of showing of consent, treatment is limited to what is necessary to resolve the emergency.

6.1.2 An attempt to secure written or oral consent would delay treatment. The patient himself/herself must be unable to give consent (by reason of legal incompetence or a prohibiting mental or physical condition) and there must be no one else immediately available who is entitled by law to consent for the patient.

6.1.3 Delay of treatment would increase the risk to the patient's life or health. An emergency may exist even though the patient's life is not in danger. If the health of the patient may be substantially worsened by delay, the patient's condition is sufficiently serious.

6.2 If the emergency involves a minor and parents and/or guardian are not available for consent, all efforts will be made to locate the parents and/or guardians before treatment is rendered, utilizing police, radio, or television, etc. to locate parents and/or guardian. The Public Affairs Office should be notified for assistance from the media. This notification can be handled by the Patient Administration Division (PAD). In an emergency, consent can be taken over the telephone with a witness monitoring the conversation. The consent will be documented in the patient's Outpatient Treatment Record (OTR). Written consent will be obtained as soon as possible when the parents/guardians are available. If the parents or guardians cannot be reached, notify the Chief, Patient Administration Division.

6.3 Emergency treatment should not be undertaken when consent is expressly refused by a competent adult or competent mature minor. The patient's refusal of treatment should be documented and the patient's signature on a refusal of emergency treatment form should be obtained if possible. With minors whose parents refuse consent, the Staff Judge Advocate should be consulted to consider application for court authorization.

7. DOCUMENTING CONSENT:

7.1 The patient's acknowledgment of the counseling and his or her consent to treatment will be recorded on OF FORM 522 (Medical Record - Request for Administration of Anesthesia and for Performance of Operations and Other Procedures).

7.2 Physicians will record on OF FORM 522 the nature of the proposed procedure. They may also record on the OF FORM 522, or elsewhere in the medical record, some of the risks discussed with the patient. Any listing of risks will be preceded by qualifying terms such as, "including, but not limited to". Consent counseling is a dynamic process.

7.3 For emergencies, within a reasonable time of treatment, the physician administering treatment will record on either OF FORM 522, or History & Physical:

7.3.1 The reasons consent could not be obtained prior to treatment.

7.3.2 The elements of the patient's condition that represented a serious or imminent threat to life, health or well-being.

8. CONSENT FOR ACTIVE DUTY MILITARY PERSONNEL:

8.1 A member of the Army on active duty usually will be required to submit to medical care considered necessary to protect or maintain the health of others, to preserve the member's life, or alleviate undue suffering by the member. A commanding officer may, with concurrence of the medical commander, order a medical examination when needed. Under the following circumstances, medical care may be performed with or without the member's permission:

8.1.1 Emergency medical care which is required to preserve the life or health of the member.

8.1.2 Immunizations required by AR 40-562. The individual does not have an option as to whether they will be immunized. This is a military obligation; an exception is granted only for medical or religious reasons. Any force necessary to overcome an individual's reluctance to immunization normally will be provided by personnel acting under orders from the soldier's unit commander.

8.1.3 Isolation and quarantine for cases of suspected proven communicable disease, when appropriate.

8.1.4 Detention when necessary to ensure appropriate medical supervision or to protect the member or others from harmful acts.

8.1.5 Medical care related to the mental disorders of member shown to have been found incompetent by a medical board, or when believed to be incompetent and pending medical board action.

8.2 Members refusing care for other than the above will be submitted to a medical board in accordance with (IAW) paragraph 4-5, AR 600-20.

9. RELEASED AGAINST MEDICAL ADVICE (AMA/LOSS OF CONSENT): A non-military patient or his/her sponsor may decide that medical care is not wanted and that he/she be released against the advice

13 August 2006

of the physician. In such a case, the patient/sponsor will sign a DA Form 5009-R, Release Against Medical Advice, (See Appendix B), and be placed in the patient's Ambulatory Surgery Record (ASR).

10. TELEPHONIC CONSENT FOR MEDICAL CARE: Telephonic consent will only be utilized when medically indicated to prevent undue pain and suffering and not solely for the convenience of the parent or guardian.

11. OBTAINING MEDICAL POWER OF ATTORNEY: In the event that parents/patients will require a medical power of attorney, they are to be directed to PAD or the local Staff Judge Advocate's office.

12. OTHER SITUATIONS: The Patient Administration Division will be consulted on specific cases of problems not addressed elsewhere in this memorandum.

The proponent of this publication is Patient Administration Division. Users are invited to send comments and suggested improvements on DA Form 2028 directly to Patient Administration Division, RWBAHC, ATTN: MCXJ-PA, Fort Huachuca, AZ 85613-7079.

FOR THE COMMANDER:

OFFICIAL:

GREGORY A. SWANSON
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Deputy Commander for
Administration

Robert D. Lake
Information Management Officer

DISTRIBUTION: B

APPENDIX A
SPECIAL POWER OF ATTORNEY
(CHILD MEDICAL CARE)

KNOW ALL PERSONS BY THESE PRESENTS, that I, the undersigned
_____, SSN: _____, a legal resident of the State
_____, now in the military service of the United States and
currently assigned to or residing at _____,
by this document do make
and appointment _____, whose present address is
_____, as my true and
lawful attorney to do and execute (or to act with persons jointly interested
with myself therein in the doing or execution of) any or all of the following
acts or things:

To authorize any and all medical, dental and medical treatment, either
preventive or corrective, including surgery, deemed necessary by a duly
licensed physician or dentist for the health and well being of my child or
children:

I HEREBY GIVE AND GRANT TO my said attorney full power and authority to
perform every act and thing whatsoever that is necessary or appropriate to
accomplish the purposes for which this Power of Attorney is granted, as fully
and effectually as I could do if I were present; and I hereby ratify all that
my said attorney shall lawfully do or cause to be done by virtue of this
document.

PROVIDED, however, that all business transacted hereunder for me or for
my account shall be transacted in my name, and that all endorsements and
instruments executed by my said attorney for the purpose of carrying out the
foregoing powers shall contain my name, followed by that of my said attorney
and the designation "attorney-in-fact."

UNLESS SOONER REVOKED OR TERMINATED BY ME, this Power of Attorney shall
become NULL and VOID from and after _____, 19____.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of
_____, 19____.

ACKNOWLEDGMENT

STATE OF ARIZONA)
COUNTY OF COCHISE)

The foregoing instrument was acknowledged before me this _____
day of _____, 19____.
My commission expires _____

Notary Public in and for the
County of Cochise

